heated; have 30 inch range; venetian blinds; prompt maintenance; central TV antenna; and 11.8 cubic foot refrigerators.

Other housing is available in Waco. In 1960, there were 2,036 vacant housing units in Waco. Maxey Apartments are operated by Public Housing Authority and rented for $23 to $71 per month and have 90% occupancy. Private housing is available in the area of Methodist at $50 per month.

Article 8, Section 2 of the Texas Constitution provides: "* * * the Legislature may, by general laws, exempt from taxation property used for public purposes * * *."

And Article 7150, VATS, provides:

"The following property shall be exempt from taxation: *** 7. Public charities.—All buildings belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, * * *."

Exemptions from taxation are never favored, and in construing laws exempting any organization, all doubts are resolved against the exemption. Morris v. Masons, Sup. Ct. 5 SW 519; Santa Rosa Infirmary v. City of San Antonio, Sup. Ct., 259 SW 926.

Whether an organization is a "purely charitable institution" so as to entitle its property to tax exemption is a question of fact; and the burden is on the organization claiming exemption from taxation to clearly prove it. B. & P. O. E. v. City of Houston, CCA, Er. Ref., 44 SW 2d 488; Malone-Hogan Hosp. v. City of Big Spring, CCA, (nre), 288 SW 2d 550.

An organization is not an "institution of purely public charity" within the constitutional and statutory tax

exemption, unless the organization: 1) makes no gain or profit; 2) accomplishes ends wholly benevolent; 3) benefits persons, indefinite in numbers and in personalities, by preventing them, through absolute gratuity, from becoming burdens to society and to the State. City of Houston v. Scottish Rite, Sup. Ct., 230 SW 978; River Oaks Garden Club v. City of Houston, Sup. Ct., 370 SW 2d 851.

In River Oaks, *supra*, the court says:

> "One ground upon which exemptions from taxation of charitable institutions * * * can be justified * * * is that they minister to human and social needs which the state itself might and does to a greater or less extent undertake to satisfy. The ultimate obligation of the state thus is discharged by the private charity. To that extent the state is relieved of its burden."

Applying the rules of law to the factual situation here involved, we think the trial court correctly denied Methodist tax exemption as a purely public charity.

Methodist does not alleviate suffering caused by inadequate housing, and it provides no service which the State would be obligated to assume. The record reflects many other sources of adequate housing at rates below those charged by Methodist. And if a family does not live in centrally air conditioned and heated housing, renting for $72.50 to $76.50 per month with 30 inch range, venetian blinds, prompt maintenance, centrally located TV antenna, and an 11.8 foot refrigerator, such family will not necessarily, under the record here, become an obligation of the community or State.

All appellant's points and contentions are overruled. The judgment is correct. AFFIRMED.

.....

FRANK G. McDONALD
Chief Justice

APPENDIX B

Judgments of the Trial Court

(This case involved two combined lawsuits. Petitioner sued the City of Waco and the La Vega Independent School District for a declaratory judgment that its property was not subject to taxation. The City and the School District sued petitioner for taxes on its property. The two cases were tried together).

No. 32350

METHODIST RIVER OAKS APARTMENTS, INC.	IN THE DISTRICT COURT OF
VS.	MCLENNAN COUNTY, TEXAS,
THE CITY OF WACO, ET AL	74TH JUDICIAL DISTRICT

Judgment

THIS the 16th day of June, 1966, in the above entitled and numbered cause, wherein Methodist River Oaks Apartments, Inc., is Plaintiff and the City of Waco and La Vega Independent School District are Defendants, came the parties by their attorneys, and submitted the matters in controversy, as well as facts as of law, to the Court, without the intervention of a jury, a jury having been waived by all parties, and the pleadings, the evidence and the argument of counsel having been heard and fully understood, it is the opinion of the Court that the Defendants should, and it is therefore ORDERED, ADJUDGED, DECREED, DETERMINED AND DECLARED that the Defendants do have and recover against the Plaintiff a Judgment determining and declaring that Plaintiff, Methodist River Oaks Apartments, Inc., is not entitled to an exemption from the payment of ad valorem taxes to the Defendants upon the property made the basis of this suit,

and all costs in this proceeding are adjudged against the Plaintiff, Methodist River Oaks Apartments, Inc., for which let execution issue, to all of which Plaintiff duly exeepted and gave notice of appeal to the Court of Civil Appeals for the Tenth Supreme Judicial District of Texas.

SIGNED AND ENTERED this ..... day of July, 1966.

.....
D. Y. McDaniel, Judge

APPROVED AS TO FORM:

City of Waco, Texas
By /s/ Thomas R. Hunter
Thomas R. Hunter, City Attorney
La Vega Independent School District
By /s/ Tommy P. Herring
Attorney
/s/ David B. Kultgen
David B. Kultgen, Attorney for
Methodist River Oaks Apartments,
Inc., Plaintiff

No. 32524

La Vega Independent School District, Et Al vs. Methodist River Oaks Apartments, Inc.	In the District Court of McLennan County, Texas, 74th Judicial District

Judgement

BE IT REMEMBERED that on the 16th day of June, 1966, came on to be heard in regular order the above numbered and entitled cause wherein the La Vega Independent School District of McLennan County, Texas, is

plaintiff, and wherein Methodist River Oaks Apartments, Inc., a corporation, is defendant; and wherein the City of Waco, Texas, and the State of Texas, and the County of McLennan, are impleaded party defendants; and the impleaded party defendant, City of Waco, Texas, having filed herein its Petition of Intervention and being hereinafter referred to as Intervenor; and the defendant, Methodist River Oaks Apartments, Inc., having duly answered herein, but the impleaded parties defendant, the State of Texas and County of McLennan, though duly cited and served with citation herein for the time and as by law provided, failed to make answer or to otherwise appear herein; and plaintiff and intervenor, without objection of the defendant, having moved the Court to dismiss without prejudice the said State of Texas and the County of McLennan, and to dismiss from this suit any parties not named above, it is so ORDERED; and the plaintiff, La Vega Independent School District, the intervenor, City of Waco, Texas, and the defendant, Methodist River Oaks Apartments, Inc., announced ready for trial, and no jury being demanded but being waived by all parties, all matters of controversy, both of fact and of law, were submitted to the Court, and the defendant having admitted its ownership of and title to the land, improvements thereupon, and the personal property hereinafter described, and the delinquent tax records of plaintiff and of the intervenor were introduced in evidence, and evidence was submitted as to the value of the hereinafter described land, the improvements thereupon, and of the hereinafter described personal property; and the Court having heard the pleadings, the evidence, and the argument of counsel, is of the opinion and finds as follows:

The above named defendant, Methodist River Oaks Apartments, Inc., which was duly served with citation in this cause and has duly made answer and appearance herein, was, and is, the owner of record of the hereinafter described land together with the improvements thereon and of the hereinafter described personal property, at the time of the institution of this suit and at this time. Said land and each item of property described in the petitions of plaintiff and intervenor was located within the boundaries of plaintiff and of intervenor upon the dates when the taxes hereinafter found to be due were assessed, and at this time. All of the said land and property, real and personal, as appearing upon the said delinquent tax rolls of plaintiff and intervenor and owned as aforesaid by the defendant is subject to taxation by the said taxing units, and is not exempt from taxation under any provision of the constitution or laws of this State.

There are taxes, penalties, interest, and costs due, owing and unpaid to plaintiff and to intervenor, taxing units, in the amounts hereinbelow set out upon the hereinafter described land, improvements and personal property. Said taxes, penalties, interest and costs constitute a separate, valid and subsisting lien in favor of plaintiff and of intervenor, respectively, on each tract of land, together with all buildings and improvements thereupon situate, and on each item of personal property, as hereinafter described, to secure the payment of the taxes, penalties, interest and costs hereinafter adjudged to be due against each separate tract of land hereinafter described, together with the improvements thereon, respectively, and against such said personal property, which lien is prior to and superior to all claims, right, title, interest or liens asserted by the defendant herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that there is due, owing and unpaid to plain-

tiff in the capacity in which it sues, and to the intervenor in the capacity in which it sues, respectively, the following amount of taxes, penalties, interest and costs for all delinquent years upon the following described property as set out in the schedule immediately following, together with interest at the rate of six per cent per annum on all of said sums, respectively, from this date until paid, to-wit:

Amount Due to	Real Property	Personal Property
La Vega Independent School District	$ 9,390.55	$ 286.58
City of Waco	22,633.96	
Total Due	$ 32,024.51	$ 286.58
Adjudged Value	$1,185,250.00	$36,180.00

The tract of land herein referred to is described as follows:

> Lot 8 in Block 8, River Oaks Addition No. 4, to the City of Waco, McLennan County, State of Texas, and shown on Map page 192, and as more fully described in the deed of conveyance of said tract of land to defendant, Methodist River Oaks Apartments, Inc., shown of record in the Deed Records of McLennan County, Texas, and here referred to.
>
> Personal Property:
>
> 152 General Electric 11.8 cu. ft. refrigerators;
>
> 152 Hardwick 30″ gas ranges;

said personal property being located in the buildings located and situated upon the above described tract of land in the City of Waco, McLennan County, Texas.

The amount of the taxes, penalty, interest and costs, as shown by the foregoing schedule to be delinquent, due and owing to plaintiff La Vega Independent School Dis-

trict, is the amount due for the year 1964 only, and is without prejudice to the rights of said plaintiff to recover taxes, together with penalties, interest, and costs that may be due, past due, and to become due during subsequent years.

The amount of the taxes, penalty, interest, and costs, as shown by the foregoing schedule to be delinquent, due and owing to intervenor, the City of Waco, is the amount for the years 1964 and 1965 only, and is without prejudice to the right of said intervenor to recover taxes, together with penalties, interest, and costs that may be due, past due, and to become due during subsequent years.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a lien exists against said lot, tract, or parcel of land, and all buildings and improvements thereupon situate, and upon each and every item of personal property as above described, for the amount of taxes, interest, penalties, and costs herein adjudged to be due on each particular lot, tract, or parcel of land upon each item of personal property, which lien is prior and superior to all claims, right, title, interest, or liens asserted by any party defendant herein, and that plaintiff and intervenor taxing units have foreclosure of their respective liens on said lot, tract, or parcel of land, together with all buildings and improvements thereon and there situate, and on all of said personal property and each item thereof, as against the defendant, Methodist River Oaks Apartments, Inc., or any person claiming under the said defendant by any right or claim acquired pending in this suit, and that an Order of Sale be issued by the Clerk of this Court directed to the Sheriff or any Constable of McLennan County, Texas, commanding such officer to seize, levy upon, and advertise the sale of the said tract of land and improvements thereupon, and to seize, levy upon, and advertise the sale of said personal property, and sell the said property, real

and personal, to the highest bidder for cash, as under Execution, provided that none of said property shall be sold to any party, other than a taxing unit which is a party to this suit, for less than the adjudged value of the property or the aggregate amount of the judgment against the property in said suit, whichever is lower; the said adjudged value, or reasonable fair value, of the property as set by this Court is as shown by the foregoing schedule, and if no amount is shown on the schedule in space provided therefor, the Court did not fix such adjudged value; but if the defendant by and through its proper officer or by Attorney shall at any time before the sale file with the Sheriff or other officer in whose hands this Order of Sale shall be placed, a written request that the property described therein shall be divided and sold in less tracts than the whole, together with a description of said subdivisions, then such officer shall sell the property in such subdivision as the defendant may request, and in such case shall sell only as many subdivisions as necessary to satisfy this Judgment, interest, and costs, the net proceeds of any sale of such property made hereunder to any party other than a taxing unit who is a party to this suit to be applied to satisfy the judgments and liens foreclosed herein, but any excess in the proceeds of sale over and above the amount necessary to pay the taxes due, penalty, interest, and costs, and defray the costs of suit and sale and other expenses chargeable against said property, shall be paid to the parties legally entitled to such excess; that the owner of such property, or anyone having an interest therein or their heirs, assigns, or legal representative, may redeem such property in the time and manner prescribed by law; that the officer executing the Order of Sale shall make proper conveyance to the purchaser or purchasers of said land and property as prescribed by law, subject to such right of redemption; and that if before the expiration of the period of redemption

fixed by law no person who is entitled to redeem the said land and property has exercised the right of redemption, then a writ of possession shall be issued to the purchaser at foreclosure sale, or his assigns, by the Clerk of this Court within twenty (20) days after the period of redemption shall have expired, ordering the Sheriff or proper officers to place the purchaser or purchasers, or their heirs, executors, assigns or administrators in possession of the property so purchased in accordance with the laws of the State of Texas.

All costs in this suit are adjudged against the defendant, Methodist River Oaks Apartments, Inc.

All relief prayed for in the pleadings of the defendant, Methodist River Oaks Apartments, Inc., is hereby denied.

To which said Order, Judgment and Ruling of the Court the defendant, Methodist River Oaks Apartments, Inc., by its attorney of record, then and there in open Court objected and excepted, and gave notice of appeal to the Honorable Court of Civil Appeals of the Tenth Supreme Judicial District of the State of Texas, at Waco, Texas.

SIGNED AND ENTERED this the ..... day of ....., 1966.

.....

D. Y. McDANIEL, JUDGE

APPROVED AS TO FORM:

City of Waco:

By /s/ Thomas R. Hunter
Thomas R. Hunter, City Attorney

La Vega Independent School District

By /s/ Tommy P. Herring
Attorney

/s/ David B. Kultgen
David B. Kultgen, Attorney for Methodist River Oaks Apartments, Inc., Plaintiff

APPENDIX C

Text of Constitutional Provisions and Statutes Which the Case Involves

Amendment XIV, Sec. 1 of the Constitution of the United States which reads:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any persons within its jurisdiction the equal protection of the laws."

The Housing Act of 1949, Acts of July 15, 1949, c. 338, Sec. 2, 63 Stat. 413, Title 42, U.S.C., Sec. 1441, which reads:

> "The Congress declares that the general welfare and security of the Nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation. The Congress further declares that such production is necessary to enable the housing industry to make its full contribution toward an economy of maximum employment, production, and purchasing power. The policy to be followed in attaining the national housing objective established shall be: (1) private enterprise shall be encouraged to serve

as large a part of the total need as it can; (2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need; (3) appropriate local public bodies shall be encouraged and assisted to undertake positive programs of encouraging and assisting the development of well-planned, integrated residential neighborhoods, the development and redevelopment of communities, and the production, at lower costs, of housing of sound standards of design, construction, livability, and size for adequate family life; (4) governmental assistance to eliminate substandard and other inadequate housing through the clearance of slums and blighted areas, to facilitate community development and redevelopment, and to provide adequate housing for urban and rural non-farm families with incomes so low that they are not being decently housed in new or existing housing shall be extended to those localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely upon private enterprise, and without such aid; and (5) governmental assistance for decent, safe, and sanitary farm dwellings and related facilities shall be extended where the farm owner demonstrates that he lacks sufficient resources to provide such housing on his own account and is unable to secure necessary credit for such housing from other sources on terms and conditions which he could reasonably be expected to fulfill. The Housing and Home Finance Agency and its constituent agencies, and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing, shall exercise their powers, functions and duties under this or any other law, consistently with the national housing policy declared by this Act and in such manner as will facilitate sustained progress in attaining the national housing objective hereby established, and in such manner as will encourage and assist (1) the production of housing of sound standards of design, construction, livability, and size for adequate family

life; (2) the reduction of the costs of housing without sacrifice of such sound standards; (3) the use of new designs, materials, techniques, and methods in residential construction, the use of standardized dimensions and methods of assembly of home-building materials and equipment, and the increase of efficiency in residential construction and maintenance; (4) the development of well-planned, integrated, residential neighborhoods and the development and redevelopment of communities; and (5) the stabilization of the housing industry at a high annual volume of residential construction."

Article 8, Sec. 2 of the Texas Constitution which reads:

"All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places or (of) religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been

and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned shall be null and void."

Art. 7150 (7), RCS Texas 1925, as amended by Acts of the Texas Legislature, 1961, 57th Legislature, page 1087, Chapter 487, Sec. 1, Vernon's Annotated Texas Civil Statutes which reads:

"The following property shall be exempt from taxation, to-wit:

Public charities. All buildings and personal property belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, unless such rents and profits and all moneys and credits are appropriated by such institutions solely to sustain such institutions and for the benefit of the sick and disabled members and their families and the burial of the same, or for the maintenance of persons when unable to provide for themselves, whether such persons are members of such institutions or not. An institution of purely public charity under this article is one which dispenses its aid to its members and others in sickness or distress, or at death, without regard to poverty or riches of the recipient, also when the funds, property and assets of such institutions are placed and bound by its law to relieve, aid and administer in any way to the relief of its members when in want, sickness and distress, and provide homes for its helpless and dependent members and to educate and maintain the orphans of its deceased members or other persons."